

SERVICE DATE
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PSC REF#: 294339

Public Service Commission of Wisconsin
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PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Wisconsin Electric Power Company, as a Gas Public Utility, for Authority to Replace Natural Gas Distribution Facilities in the Towns of Geneva and Lyons in Walworth County, Wisconsin

6630-CG-135

CERTIFICATE OF AUTHORITY AND ORDER

This is the Order in the application of Wisconsin Electric Power Company (WEPCO), doing business as We Energies, for authority to replace natural gas distribution facilities in the towns of Geneva and Lyons in Walworth County, Wisconsin, at a total estimated cost of \$5,367,000. The application is APPROVED subject to conditions.

Background

On June 9, 2016, WEPCO, as a natural gas public utility, filed an application with the Commission pursuant to Wis. Stat. § 196.49 and Wis. Admin. Code § PSC 133.03. ([PSC REF#: 287047](#).) The application seeks authority to replace natural gas distribution facilities in the towns of Geneva and Lyons in Walworth County, Wisconsin (proposed project).

On September 22, 2016, the Commission issued a Notice of Investigation in this docket. WEPCO is the only party to this investigation. No hearing was held on this application.

Findings of Fact

1. No person requested a hearing in this investigation.
2. No significant environmental consequences are associated with the proposed project.
3. Construction of the proposed project will not affect any historic properties.

4. Construction of the proposed project will not affect any endangered or threatened species.
5. No significant risk of flooding is associated with the proposed project.
6. When the proposed project is placed in operation, the addition to WEPCO's cost of service associated with the proposed project will be proportional to the increase in value or available quantity of service.
7. Completion of the proposed project will not substantially impair the efficiency of the service that WEPCO provides.
8. The proposed project will not provide facilities unreasonably in excess of WEPCO's probable future requirements.
9. Energy conservation, renewable resources, or other energy priorities listed in Wis. Stat. § 1.12 would not be a cost-effective alternative to the proposed project.

Conclusions of Law

1. WEPCO is a public utility as defined in Wis. Stat. § 196.01(5)(a) and is required to obtain a Certificate of Authority for its proposal under Wis. Stat. § 196.49(1)(am) and Wis. Admin. Code § PSC 133.03(1)(e).
2. The Commission has authority under Wis. Stat. §§ 1.11, 29.604, 44.40, 196.02, 196.395, 196.40, and 196.49, and Wis. Admin. Code § PSC 133.03, to issue a Certificate of Authority and Order with or without conditions, authorizing WEPCO to construct the proposed project as described in the Discussion section of this Certificate of Authority and Order. The Commission has authority under Wis. Stat. § 15.02(4) to delegate to the Administrator of the Division of Energy Regulation those functions vested by law as enumerated above. It has

delegated authority to the Administrator of the Energy Regulation Division to issue a Certificate of Authority and Order in this matter.

3. The Commission is not required to hold a hearing under Wis. Admin. Code § PSC 133.06(1).

4. The proposed project as conditioned in this Certificate of Authority and Order is reasonable and appropriate under Wis. Stat. § 196.49.

5. Public convenience and necessity require the project.

Discussion

WEPCO is a natural gas public utility as defined in Wis. Stat. § 196.01(5)(a) and is engaged in the business of selling and distributing natural gas to the public in Wisconsin, including in portions of Walworth County. WEPCO seeks authority to replace approximately 4 miles of 1951-vintage 6-inch steel gas main steel pipe. The proposed project route begins on County Trunk Highway (CTH) NN at the eastern edge of Elkhorn and extends east, traveling down CTH NN to Weaver Road, to Bowers Road, to Hospital Road, terminating just east of the intersection of Hospital Road and State Road 120. WEPCO has chosen a staging area on the south side of CTH NN near the Department of Health and Human Services Building. The 1.2 acre staging area would be located on an existing paved parcel between the Lakeland School and BMO Harris Bank. In addition to replacing the existing gas main, WEPCO also seeks to replace 16 high-pressure services, most of which would occur along the western portion of the project, with one occurring at the far eastern end.

WEPCO states that the primary driver for the proposed project is to replace the aging 1951-vintage main with newer, less leak-prone main. In addition, WEPCO states that increasing the diameter of the existing pipe would enable the utility to accommodate an anticipated growth

in future demand for natural gas service from the communities in the Walworth area. The estimated total cost of the project is \$4.71 million; \$4,630,000 (98 percent of total cost) for main replacement, and \$80,000 (2 percent of total cost) would be used to replace the high-pressure services.

The Commission served a notification on August 5, 2016, indicating that it would prepare an environmental assessment (EA) pursuant to Wis. Stat. § 1.11 and Wis. Admin Code chs. NR 150 and PSC 4. ([PSC REF#:289871.](#)) A 15-day comment period began with the issuance of the notification in which the Commission sought public input regarding the potential environmental impacts associated with the project. Comments received by the Commission consisted primarily of general environmental concerns and questions regarding specific aspects of the project. On September 22, 2016, the Commission issued its preliminary determination which indicated that no significant or long-term environmental effects would be expected as a result of the project, and as a result, the preparation of an environmental impact statement was not necessary. ([PSC REF#: 292029.](#))

The Wisconsin Department of Natural Resources' (DNR) Natural Heritage Inventory database was reviewed for endangered and threatened species and species of special concern. The construction of the proposed facilities is not expected to affect and endangered or threatened species under Wis. Stat. § 29.604(6r). A search of the Wisconsin Historical Society's Historic Preservation database revealed the presence of three previously recorded historical properties and three uncatalogued burial sites in the project area. Two of the historical properties no longer exist and the third is not eligible for listing in the National Register of Historic Places (NRHP). One of the uncatalogued burial sites is scheduled to be removed from the NRHP and the project would completely avoid the other two. As a result, it was determined that the project would not have an

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adverse effect on any NRHP eligible properties and no further action was recommended for compliance under Wis. Stat. §§ 44.40 and/or 157.70.

Several wetlands and waterways are present along the project route. DNR has stated that no significant impacts are likely to occur to wetlands or waterways due to the spatial configuration of the project, planned use of Horizontal Directional Drill construction methods, and the avoidance measures to be used by WEPCO. It is therefore anticipated that the project, as currently proposed, will not require a wetland/waterway permit from DNR. It is likely to qualify for the non-reporting portion of General Permit 3 under Wis. Stat. § 30.025.

There is no viable alternative to the proposed project. It is unlikely that renewable resources, other forms of generation, or additional energy conservation would be cost-effective alternatives. No special circumstances exist that would lead a decision maker to conclude under Wis. Stat. § 196.025 that additional conservation activities, renewable resources, or any energy priorities listed in Wis. Stat. § 1.12 would be a reasonable alternative to this project.

Upon completion of the review process, the Commission decided that the plans, specifications, and estimated costs of the proposed project are reasonable, and that the construction of the proposed facilities would not have any undue adverse impacts on human or natural environments. Moreover, the proposed project is needed to provide adequate and reliable service to present and future natural gas customers. Nothing in this Certificate of Authority and Order authorizes WEPCO to waive filed extension rules; purchase additional transportation capacity, balancing, storage, or other pipeline services; or obtain purchased gas adjustment recovery of the costs of additional natural gas supply.

Certificate

WEPCO, as a gas public utility, may construct facilities in the towns of Geneva and Lyons, Walworth County, Wisconsin, as described in the discussion section of this Certificate of Authority and Order.

The Commission grants WEPCO a Certificate of Authority and authorizes WEPCO to proceed with the proposed project, subject to the conditions of this Certificate of Authority and Order.

Order

1. WEPCO may construct facilities in the towns of Geneva and Lyons, Walworth County, Wisconsin as described in the discussion section of this Certificate of Authority and Order (approved project) and is granted a Certificate of Authority for the approved project subject to the conditions of this Certificate of Authority and Order.

2. This authorization is for the specific purpose described in the application at the cost estimate of \$4,710,000. WEPCO shall notify and obtain approval from the Commission before proceeding with any substantial change in the design, size, cost, or location of the approved project.

3. WEPCO shall construct the approved project in accordance with applicable state and federal law, including Wis. Admin. Code ch. PSC 135.

4. WEPCO shall notify the Commission within 5 working days of the date actual, on-site, physical construction of the approved project is started and shall also notify the Commission within 20 working days after the approved facilities are placed in service.

5. WEPCO shall file a report with the Commission promptly upon completion of construction of the approved project. The report shall include the final costs for the project

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segregated by plant account, a table comparing the estimated and actual costs for each of the major components of the project, a table comparing the estimated and actual footage and the actual cost for each type and size of pipe installed, and an explanation of any significant variation between the authorized and actual cost.

6. Upon completion of construction of the approved project, WEPCO shall file with the Commission a complete report of the retired facilities segregated by plant account.

7. This Certificate of Authority shall expire if WEPCO does not begin physical construction within one year of the effective date. WEPCO may file a written request to extend the Certificate of Authority prior to its expiration. The Certificate of Authority does not expire if the Commission grants an extension. If this Certificate of Authority expires before construction begins, WEPCO shall provide a written explanation within 20 days of the date of expiration.

8. This Certificate of Authority and Order takes effect the day after the date of service.

9. Jurisdiction is retained.

Dated at Madison, Wisconsin, November 14, 2016.

For the Commission:

A handwritten signature in black ink, appearing to read 'Jeffrey J. Ripp', written in a cursive style.

Jeffrey J. Ripp
Administrator
Division of Energy Regulation

JJR:ARG:jlt:DL: 01472613

See attached Notice of Rights

PUBLIC SERVICE COMMISSION OF WISCONSIN
610 North Whitney Way
P.O. Box 7854
Madison, Wisconsin 53707-7854

**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE
TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE
PARTY TO BE NAMED AS RESPONDENT**

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

PETITION FOR REHEARING

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

PETITION FOR JUDICIAL REVIEW

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.¹ The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2013

¹ See *Currier v. Wisconsin Dep't of Revenue*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.